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Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 L-03 CU-04 CIAE-00 INR-10 NSAE-00
/030 W
----------064332 202035Z /53
R 201652Z MAR 78
FM AMEMBASSY BERLIN
TO SECSTATE WASHDC 6966

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E.O.11652: N/A
TAGS: CGEN, CPRS, PGOV, SCUL, GE, US
SUBJECT: FEININGER PAINTINGS: LETTER FROM ESTATE
EXECUTOR

REFS: (A) BERLIN 759; (B) BERLIN 1600; (C) BERLIN 1923

1. AMB. BOLEN HAS RECEIVED FOLLOWING LETTER DATED MARCH 8, 1978 FROM RALPH F. COLIN, ATTORNEY, EXECUTOR OF THE ESTATE OF JULIA FEININGER:

BEGIN TEXT:

DEPUTY ASSISTANT SECRETARY OF STATE FOR EUROPEAN AFFAIRS, JAMES E. GOODBY, HAS TOLD ME OF YOUR EFFORTS ON MY BEHALF AS EXECUTOR OF THE ABOVE ESTATE, AND SPECIFICALLY OF YOUR MEETINGS WITH EAST GERMAN OFFICIALS CONCERNING THE PAINTINGS BY LYONEL FEININGER WHICH ARE HELD IN EAST GERMANY. I DEEPLY APPRECIATE YOUR EFFORTS, AS DO THE HEIRS OF THE ESTATE, WHO ARE NOW THE TWO SURVIVING SONS OF THE PAINTER.

WHILE I AM SURE THAT YOU HAVE IT IN MIND, PERMIT ME TO POINT OUT THAT THIS IS NOT ONLY A LIMITED OFFICIAL USE

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CLAIM FOR MONEY OR PROPERTY, AS IS THE USUAL CASE, BUT IS A CLAIM BY THE HEIRS OF AN ARTIST FOR A SUBSTANTIAL AND IMPORTANT PORTION OF AN ARTIST'S LIFEWORK. TO THESE HEIRS, THE PAINTINGS IN QUESTION HAVE AN IMPORTANCE FAR BEYOND THEIR SUBSTANTIAL MONETARY VALUE.

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I KNOW YOU REALIZE ALSO THAT AS THE EXECUTOR, I AM PRESENTLY IN A SERIOUS DILEMMA. I HAVE TAKEN THE POSITION WITH THE EAST GERMAN AUTHORITIES THAT HAVING ESTABLISHED MY TITLE TO THE PAINTINGS IN AN EAST GERMAN COURT, I SHOULD BE ENTITLED TO THEIR IMMEDIATE POSSESSION AND THAT, IN FACT, THERE IS NOTHING FOR ME TO PROVE BEFORE A FOREIGN CLAIMS SETTLEMENT COMMISSION. HOWEVER, ALL CLAIMS BEFORE THAT COMMISSION MUST BE FILED BY MAY 15, 1978. I AM THEREFORE IN A POSITION OF ASSERTING, ON THE ONE HAND, THAT I NEED NOT FILE A CLAIM BUT, ON THE OTHER, REALIZING THAT BY NOT FILING, I MAY BE FOREFEITING AN OPPORTUNITY FURTHER TO PROSECUTE MY CLAIM. WHAT I AM PLANNING TO DO, IF YOUR EFFORTS ARE UNSUCCESSFUL, IS TO FILE A CLAIM WITH THE COMMISSION AT THE LAST POSSIBLE MINUTE BUT INCLUDE A LEGEND TO THE EFFECT THAT I BELIEVE THE COMMISSION IS THE WRONG FORUM AND THAT, AS EXECUTOR, I AM ENTITLED TO THE PAINTINGS WITHOUT FURTHER PROOF BEFORE THE COMMISSION. I THEREFORE HOPE THAT YOU MAY FIND IT POSSIBLE TO FOLLOW UP ON YOUR CONVERSATIONS WITH EAST GERMAN OFFICIALS AND ATTEMPT TO PROCURE SOME DEFINITE ANSWER FROM THEM IN AMPLE TIME BEFORE MAY 15 TO ENABLE ME TO DECIDE WHETHER AND HOW TO FILE A CLAIM WITH THE COMMISSION.

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I CAN ONLY ADD THAT IF YOU THINK IT MIGHT BE HELPFUL, I WOULD BE HAPPY TO FLY TO EAST BERLIN TO MEET WITH YOU AND EAST GERMAN OFFICIALS.

WITH RENEWED THANKS AND APPRECIATION, I AM,

END TEXT.

2. BEFORE REPLYING, WE WOULD APPRECIATE SOME INFORMATION ON WHAT COLIN WAS TOLD DURING HIS VISIT TO THE STATE DEPARTMENT MARCH 16.

3. WE PLAN TO INFORM COLIN THAT WE WILL FOLLOW UP WITH EAST GERMAN OFFICIALS ON THE QUESTION OF THE DISPOSITION OF THE FEININGER PAINTINGS. WE WOULD ALSO TELL HIM THAT WE DO NOT BELIEVE IT WOULD BE HELPFUL FOR HIM TO COME TO EAST BERLIN AT THIS STAGE ALTHOUGH IT MAY BE SO LATER. WE WILL NOT OFFER ADVICE ON WHETHER TO FILE A CLAIM WITH THE FOREIGN CLAIMS SETTLEMENT COMMISSION.

4. AS A PRACTICAL MATTER, IT SEEMS TO US THAT IT

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WILL BE NECESSARY TO DISPOSE OF THE GDR PROPOSAL
TO NEGOTIATE AN AGREEMENT ON MUTUAL RETURN OF
CULTURAL OBJECTS. AS SOON AS WE HAVE ESTABLISHED
THAT IS WHAT THEY HAVE IN MIND, WE PLAN, WITH
CONCURRENCE OF THE DEPARTMENT, TO SEND A NOTE
REJECTING THIS PROPOSAL, POINTING OUT THAT OWNERSHIP
OF FEININGER PAINTINGS IS NO LONGER IN DISPUTE
AS THE ISSUE HAS BEEN DECIDED BY GDR COURTS AND
ASKING THAT THE PAINTINGS BE RETURNED PROMPTLY.

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ACTION EUR-12

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5. IN CONNECTION WITH FURTHER DISCUSSIONS WITH
GDR OFFICIALS ON THIS MATTER, IT WOULD BE HELPFUL
TO US IF WE HAD A LISTING OF
CULTURAL PROPERTIES IN THE US WHICH THE GDR CLAIMS
OR HAS INDICATED AN INTENTION OF CLAIMING. IT
WOULD ALSO BE HELPFUL TO KNOW HOW THESE CLAIMS ARE
BEING HANDLED (LITIGATION, ADMINISTRATIVE PROCEDURE,
ETC.) AND AT WHAT STAGE THEY ARE IN THE PROCESS.
BOLEN

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Disposition Approved on Date:
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Disposition History: n/a
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